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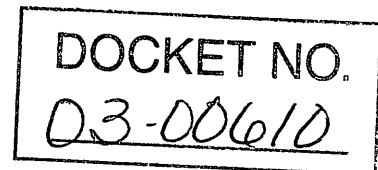
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T.R.A. DOCKET ROOM

November 20, 2003

**VIA HAND DELIVERY**

Ms. Deborah Taylor Tate, Chairman  
TENNESSEE REGULATORY AUTHORITY  
460 James Robertson Parkway  
Nashville, Tennessee 37243



***Re: Petition by the CenturyTel of Claiborne, Inc. Petition for Suspension of the Federal Communications Commission Requirement to Implement Number Portability***

Dear Chairman Tate:

Enclosed for filing in the above-styled matter are the original and thirteen copies of CenturyTel of Claiborne, Inc.'s Petition for Suspension and Motion for Expedited Treatment. Should you have any questions with respect to this filing, please do not hesitate to contact me at the number shown above.

Thanking you in advance for your assistance with this matter, I am

Very truly yours,

A handwritten signature in black ink, appearing to read "R. Dale Grimes".

R. Dale Grimes

RDG/ts  
Enclosures

cc: Mr. David Dickey  
Timothy C. Phillips, Esq.  
Ms. Susan W. Smith

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**CENTURYTEL OF CLAIBORNE, INC.            )  
PETITION FOR SUSPENSION OF THE        )  
FEDERAL COMMUNICATIONS                )  
COMMISSION REQUIREMENT                )  
TO IMPLEMENT NUMBER PORTABILITY    )**

**Docket No.:** \_\_\_\_\_

**PETITION FOR SUSPENSION AND  
MOTION FOR EXPEDITED TREATMENT**

COMES NOW CenturyTel of Claiborne, Inc. (CenturyTel), and pursuant to section 251(f) of Telecommunications Act of 1996 hereby petitions the Tennessee Regulatory Authority (TRA) for a suspension of the Federal Communications Commission's ("FCC") November 10, 2003 *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking* ("Order") insofar as it requires Petitioner to implement local number portability ("LNP") by November 24, 2003. In support of this Petition and Request, the Petitioner states to the TRA as follows:

**SUMMARY**

1. On November 10, 2003, the FCC issued its *Memorandum Opinion and Order* in CC Docket No. 95-116 regarding wireline-to-wireless number portability. The *Order* concludes that, as of November 24, 2003, local exchange carriers (LECs) providing service within the Nation's 100 largest Metropolitan Statistical Areas (MSAs) must port numbers to wireless carriers where the requesting wireless carrier's "coverage area" overlaps the geographic location of the rate center in which the customer's wireline number is provisioned. The Petitioner seeks suspension and waiver of this decision, because it is technically infeasible for it to comply with the *Order* by November 24, 2003.

2. The FCC's November 10, 2003 *Order* establishes a November 24, 2003 deadline for local exchange carriers operating in the largest 100 Metropolitan Statistical Areas (MSAs) to provide wireline-to-wireless number portability. However, the FCC's *Order* also recognized that this requirement places a real burden on small rural companies. In addition, the FCC's *Order* leaves unclear a number of the obligations and responsibilities related to wireline-to-wireless number portability. Given the short amount of time that Petitioner would have to deploy LNP under these deadlines and the lack of FCC guidance with respect to important deployment issues, the Petitioner believes that an expedited suspension order is necessary to prevent Petitioner from the possibility of being in violation of FCC rules and requirements.

3. In addition to the numerous technical issues that make deployment of LNP substantially more difficult for small rural telephone companies, there are important unresolved intermodal porting issues (porting numbers between wireline carriers and wireless carriers) associated with the deployment of number portability as noted in the FCC's *Order*. Absent further guidance from the FCC on how to resolve these issues, it is not technically feasible for Petitioner, or any other small rural wireline carrier, to deploy LNP by the November 24, 2003 deadline.

#### **PETITION FOR SUSPENSION**

4. CenturyTel of Claiborne, Inc.'s, Sharp's Chapel service area, includes an extremely small part of Union County, Tennessee, which is a part of the Knoxville MSA. CenturyTel has no pending actions or final, unsatisfied judgments or decisions against it that involve customer service or rates, which action, judgment or decision has occurred within the last three years from the date of this Petition. CenturyTel has no annual report or assessment

fees overdue. CenturyTel serves approximately 998 access lines in Union County, and less than .15% of the population of the Knoxville MSA.

5. Section 251(f)(2) of the Act allows a rural local exchange carrier (LEC) with fewer than two percent of the Nation's subscriber lines installed in the aggregate nationwide to petition a state commission for a suspension or modification of the application of a requirement or requirements found in Subsections (b) and (c) of Section 251.<sup>1</sup> Subsection (b)(2) of Section 251 contains the duty to provide number portability in accordance with FCC requirements.<sup>2</sup>

6. Petitioner is subject to the TRA's jurisdiction, and Petitioner meets the definition of a "rural telephone company" as defined in Section 3 of the federal Telecommunications Act ("the Act").<sup>3</sup> The access lines of the Petitioner are well below the two percent of the approximately 188 million access lines in the United States.<sup>4</sup> Therefore, Petitioner is eligible to petition the TRA.

7. Section 251(b)(2) of the Telecommunications Act of 1996 (the Act) requires all local exchange carriers (LECs) to provide "number portability." Number portability is defined as "the duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission." It is important to note that the porting of a number also involves the transport of the associated call. Thus, when a calling party dials a ported number, a data base is queried and the originating switch is advised that the number has been ported to another carrier. The associated call is then transported or routed to that other carrier for

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<sup>1</sup> 47 U.S.C. §251(f)(2).

<sup>2</sup> 47 U.S.C. §251(b)(2).

<sup>3</sup> 47 U.S.C. §153(37).

<sup>4</sup> Source: FCC's *Trends in Telephone Service Report* released on August 7, 2003.

termination to the called party. In a series of decisions and rules, the FCC has established guidelines for the porting of numbers by wireline carriers. Of significance is the fact that the FCC's rules limit a wireline carrier's obligation to port numbers within the wireline carrier's rate center.<sup>5</sup> In other words, wireline carriers are not required to port numbers beyond their respective rate centers or the area within which they provide local exchange calling. The porting of numbers beyond a wireline carrier's rate center has been referred to as "location portability."

8. Also of significance is the fact that the FCC's rules do not require rural carriers (such as Petitioner) to implement local number portability (LNP) until they had received a bonafide request (BFR) by a requesting carrier. Once a rural carrier receives a BFR to implement LNP, it has six months within which to make the necessary investments, install equipment, and make administrative changes to become LNP capable.

9. The FCC has also determined that wireless carriers should provide LNP. In a series of decisions, the FCC has extended the deadline for wireless carriers located in the 100 largest MSAs (Metropolitan Statistical Area) to be LNP capable to November 24, 2003. As wireless and wireline carriers began to discuss the porting of numbers between their respective networks (known as "intermodal" porting) they identified distinct differences of opinion regarding, among other things, the extent of wireline carriers' obligation to provide LNP. Specifically, wireline carriers objected to the porting of numbers (and associated calls) to a wireless carrier who is not directly connected with the wireline carrier and who does not have numbering resources (i.e., NPA, NXXs) within the same rate center as the wireline carrier. This, in the opinion of the wireline carriers, constituted location portability which FCC rules did not require. This issue was specifically brought to the FCC's attention in a Petition for Declaratory

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<sup>5</sup> A "rate center" is a specific geographical location within an exchange area from which mileage measurements are determined for the application of rates between exchange areas.

Ruling filed January 13, 2003, by the Cellular Telecommunications Industry Association (CTIA). Comments were received from both the wireless and wireline industry. When the FCC failed to act on CTIA's Petition, CTIA filed a Second Petition for Declaratory Ruling on May 13, 2003.

10. On November 10, 2003, in response to the CTIA Petitions for Declaratory Ruling, the FCC, for the first time, "clarified" that its rules regarding wireline to wireline number portability were not applicable to intermodal porting. As a result, as of November 24, 2003, a mere fourteen days later, LECs must port numbers to a requesting wireless carrier where the wireless carrier's coverage area overlaps the geographic location of the rate center to which the number is assigned, even though the wireless carrier's point of presence is in another rate center and has no direct interconnection with the wireline carrier. The FCC further found that wireless carriers need not enter into Section 251 Interconnection Agreements with wireline carriers solely for the purpose of porting numbers. In other words, the FCC has for the first time clarified that its rules prohibiting location portability between wireline carriers do not apply to wireline to wireless LNP.

11. As of November 24, 2003, wireline carriers located within the 100 largest MSAs are obliged to port numbers to wireless carriers who do not have a direct interconnection with the wireline carrier and who do not have numbering resources (i.e., NPA NXXs) assigned to the rate center served by the wireline carrier.<sup>6</sup> While the FCC recognized that there were legitimate issues with respect to how numbers ported from a wireline carrier to a wireless carrier will be routed where there is no direct interconnection, it declined to address these issues at this time.

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<sup>6</sup> The Commission determined that for wireline carriers operating in areas outside of the 100 largest MSAs that the requirement that these carriers port numbers to wireless carriers that do not have a point of interconnection or numbering resources in the rate center where the customers wireless number is provisioned is waived until May 24, 2003.

The FCC also recognized that there may be other regulatory requirements that prevent wireline carriers from porting wireless numbers when the rate center associated with the number and the customer's physical location do not match. However, the FCC declined to resolve these issues and requested further comment on them. Finally, the FCC even acknowledged that wireline carriers within the 100 largest MSAs who are required to port numbers to wireless carriers on and after November 24, 2003, may not be able to meet this deadline, but instead of addressing this real dilemma, simply invited them to file petitions for waiver.

12. Petitioner seeks suspension and modification of the Act's porting requirements, as clarified by the FCC in its November 10, 2003 *Order*, because it is simply not technically feasible for it to comply with these new requirements in fourteen days. As previously indicated, Petitioner is not LNP capable. To become LNP capable will require a significant investment in central office switching equipment. Contracts with switch vendors will have to be executed, and equipment will have to be shipped, installed, and tested.

13. In addition, once a number has been ported all local calls must be routed to a data base to determine if the number(s) called has been ported. Petitioner will have to contract with a third party vendor to provide this data base query. Petitioner will also have to implement changes in their office administration, including service order processing, in order to process customer requests for porting. Finally, to the extent that Petitioner is required to port numbers (and transport associated calls) beyond their rate center(s) to other rate centers where wireless carriers have established their points of presence, this will entail facilities that Petitioner does not currently have in place. Petitioner will either need to establish facilities between their exchanges and the wireless carriers point of presence or arrange with an intermediate carrier to transport the call. None of these facilities and/or arrangements currently exist and this will obviously require

time to negotiate and establish. To date, no customer of Petitioner has requested that their local telephone number be ported to a wireless carrier. In addition, while Petitioner has previously received portability “requests” from wireless carriers they are not considered bona fide requests.

14. Petitioner believes that important contractual and compensation issues associated with porting outside the rate center would need to be resolved to accomplish intermodal porting. At present, the FCC has not provided guidance on any of these important issues, and as a result, Petitioner has no information about how to comply with the November 24, 2003 deadline for implementing intermodal number portability.

15. Although the FCC’s *Order* recognizes the problems associated with many of these issues, such as the impact of designating different routing and rating points, the *Order* does not resolve them. For example, the *Order* clarifies that ported numbers must remain rated to their original rate center. However, the *Order* also notes that the routing will change when a number is ported. The *Order* observed that several wireline carriers have expressed concern about the transport costs associated with routing calls to ported numbers. (§39) The *Order* also cites the arguments filed by NECA and NTCA that when wireless carriers establish a point of interconnection outside of a rural LEC’s serving area: (1) a disproportionate burden is placed on rural LECs to transport originating calls to the interconnection points; and (2) requiring wireline carriers to port telephone numbers to out-of-service area points of interconnection could create an even bigger burden. Nevertheless, the *Order* finds that these concerns “are outside the scope of this order.” (§39) The *Order* states that its ruling is “limited to ported numbers that remain rated in their original rate centers.”

16. Given the fact that the FCC issued its decision on November 10, 2003, substantially altering the obligations of wireline carriers with respect to intermodal LNP, the fact



that Petitioner has no present ability to provide LNP or to provide for the porting of numbers and associated calls to the wireless carriers' facilities and the fact that no customer has, to date, requested that their number be ported, Petitioner believe it is appropriate for the TRA to issue an order suspending the FCC's requirement that they implement local number portability on November 24, 2003.

### **MOTION FOR EXPEDITED TREATMENT**

17. Petitioner seeks a TRA order on or before November 21, 2003, as this is the last business day before the November 24, 2003 deadline. The FCC's *Order* imposes requirements that appear to be substantially different than the prior LNP rules, and it is physically impossible for Petitioner to comply with the FCC's *Order* within the two-week time period ordered by FCC. Therefore, granting the Petition would prevent Petitioner from being in violation of FCC *Orders* and avoid increased costs for rural customers. Granting the Petitioner's request will allow Petitioner more time to implement the technical requirements for LNP and provide more time for the FCC to clarify the LNP requirements for small, rural telephone companies. There will be no negative effect on Petitioner's customers or the general public. To Petitioner's knowledge, none of Petitioner's customers have requested porting. This pleading was filed as soon as it could have been after the FCC's November 10, 2003 decision.

### **CONCLUSION**

18. The *Order's* requirement to provide number portability by November 24, 2003 is technically infeasible for Petitioner at this time. In addition, the *Order* lacks federal guidance on the intermodal porting issues discussed above. Therefore, Petitioner respectfully request that the TRA grant Petitioner a temporary suspension of the *Order's* intermodal porting obligations until May 24, 2004, when the FCC envisions other small rural carriers outside the 100 largest MSAs

implementing number portability. This suspension, if granted, will ensure that Petitioner's rural customers are not burdened with unnecessary expenditures to meet intermodal porting requirements that are uncertain at the present time.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. Dale Grimes", is written over a horizontal line.

R. Dale Grimes (#6223)  
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(615) 742-6200

*Counsel for Petitioner  
CenturyTel of Claiborne, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of Petitioner CenturyTel of Claiborne, Inc. Petition for Suspension and Motion for Expedited Treatment has been served, via the method(s) indicated, on this the 20th day of November, 2003, upon the following:

- ☐ Hand
- ☐ Mail
- ☒ Facsimile
- ☐ Overnight

Timothy C. Phillips, Esq.  
Assistant Attorney General  
Office of the Tennessee Attorney General  
Consumer Advocate and Protection Division  
P.O. Box 20207  
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